

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

RICARDO VELASQUEZ,

Plaintiff,

-against-

**L.E.S. MINIMART CORP. and PROPERTY
MANAGEMENT OF 127 CORP.,**

Defendants.

USDC SDNY
DOCUMENT
ELECTRONICALLY FILED

DOC#: _____

DATE FILED: 12/22/2022

21-cv-7611 (ALC)

Order of Dismissal

ANDREW L. CARTER, United States District Judge:

On September 11, 2021, Plaintiff Ricardo Velasquez commenced this action, alleging violations of the Americans with Disabilities Act “(ADA)”, 42 U.S.C. § 12181 et seq., the New York State Human Rights Law, and the New York City Human Rights Law against Defendants L.E.S. Minimart Corp. and Property Management of 127 Corp. (“Defendants”). ECF No. 1.

Plaintiff filed affidavits of service affirming that the Defendants were served on October 14, 2021; therefore, Defendants’ answers were due on November 4, 2021. However, the Defendants did not appear in the above-captioned matter. Plaintiff did not seek a default judgment. Accordingly, on November 18, 2021, the Court ordered Plaintiff to show cause as to why this action should not be dismissed without prejudice pursuant to Fed. R. Civ. P. 41(b). ECF No. 10. The Court directed Plaintiff to respond by December 6, 2021, and the Court warned Plaintiff that any failure by to make this showing would result in a dismissal of this case without prejudice for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). *Id.*

Plaintiff requested three separate extensions of time from December 5, 2021 until January 28, 2022 and the Court granted all three requests. *See* ECF Nos. 12, 14, 16. The Court directed the Plaintiff to comply with the Court’s Order to Show Cause by March 31, 2022. ECF No. 16. On April 1, 2022, Plaintiff explained that he faced difficulties in serving Defendants and requested

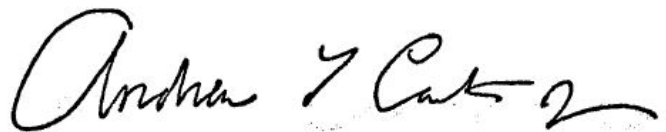
another extension of time of 45 days to respond to the Order to Show Cause. ECF No. 18. The Court granted this extension. ECF No. 19. On May 16, 2022, Plaintiff filed a letter motion requesting one last 30-day extension of time to allow Defendants to contact the Plaintiff's counsel and respond to the Complaint. ECF No. 20. The Court granted the extension request. ECF No. 21.

On July 27, 2022, the Court again ordered Plaintiff to comply with the Court's November 18, 2021 Order to show Cause on or before August 5, 2022 and explained that no further extensions would be granted. ECF No. 22. Plaintiff again requested an extension on August 5, 2022. ECF No. 23. Plaintiff explained that the Defendants were re-served by an independent process server and that Plaintiff was making another attempt to contact the Defendants to solicit their response. *Id.* The Court denied this extension request and ordered Plaintiff to file proof of service by August 23, 2022. ECF No. 24. Plaintiff filed affidavits of service on August 19, 2022. ECF Nos. 25-26.

To date, Plaintiff has failed to respond to the Order to Show Cause despite numerous extensions of time. Accordingly, this action is hereby **DISMISSED WITHOUT PREJUDICE** for failure to prosecute pursuant to Fed. R. Civ. P. 41(b). The Clerk of Court is respectfully directed to terminate this case.

SO ORDERED.

Dated: December 22, 2022
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge